

LANDSCAPE MAINTENANCE AGREEMENT

THIS AGREEMENT made this 15<sup>th</sup> day of June,

1976, pursuant to A.R.S. § 11-951 through § 11-954 by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Flagstaff, a municipal corporation, thereunto duly authorized, hereinafter designated City of Flagstaff,

WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City of Flagstaff to landscape the approach to the City of Flagstaff along U.S. 66 at the intersection of Sitgreaves and Santa Fe Avenue.

NOW, THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City of Flagstaff, pursuant to the authority contained in A.R.S. § 28-106-B-(18), as follows:

1. The Department of Transportation shall prepare plans for the landscaping and the installation of an irrigation system.

2. The Department of Transportation shall furnish funds, not to exceed Five Thousand (\$5,000.00) Dollars for the purchase of the necessary materials for the landscaping and for purchase of materials required for the irrigation system.

3. The City of Flagstaff shall properly install the landscaping and irrigation system, at no cost to the Department of Transportation.

4. All labor tools, equipment and the actual procurement of the materials shall be furnished or done by the City of Flagstaff at no cost to the Department of Transportation.

5. The City of Flagstaff shall make the necessary taps to the existing water mains and shall install the gate valves and meter boxes at no

1 cost to the Department of Transportation.

2           6. The City of Flagstaff shall furnish irrigation water for the  
3 landscaping during the construction and thereafter, at no cost to the Depart-  
4 ment of Transportation.

5           7. The City shall properly maintain the landscaping, plant  
6 material, irrigation system and other appurtenances, following the construction  
7 at no cost to the Department of Transportation. Maintenance shall include the  
8 repair and replacement of defective irrigation material, dead or unhealthy  
9 plant material including trees and shrubs.

10           8. The City of Flagstaff hereby agrees to save and hold harmless  
11 the Department of Transportation, or any of its departments, agencies, officers  
12 or employees from all cost and damage incurred by any of the above and from  
13 any other damage to any person or property whatsoever, which is caused by  
14 any activity, condition, or event arising out of the performance or non-  
15 performance of any provision of this agreement by the City of Flagstaff, any of  
16 its agents, or any of its independent contractors. The above cost incurred by  
17 the Department of Transportation or any of its departments, agencies or  
18 employees shall include in the event of an action, court costs, expenses of  
19 litigation and reasonable attorneys' fees. When any above cost, damage or  
20 other damage occurs as aforesaid, the City of Flagstaff assumes the burden of  
21 proof that the activity, condition, or event did not cause such cost, damage or  
22 other damage.

23           9. This agreement shall remain in effect until such time as the  
24 State relinquishes ownership of the right of way.

25           10. This agreement shall be filed with the Secretary of State and  
26 shall not become effective until ten days after the date of such filing.

27           11. Authenticated copies of the Resolution of the Department of  
28 Transportation and the City of Flagstaff authorizing both entities to enter into

1 such agreement are attached.

2 IN WITNESS WHEREOF the parties have executed two copies of  
3 this agreement on the day and year herein written.

4 ARIZONA DEPARTMENT OF  
5 TRANSPORTATION

CITY OF FLAGSTAFF

6 *Dean J. Lyon, Jr.*  
7 *6-25-76*

By *Robert L. Moody*  
MAYOR

8 ATTEST:

9  
10 *Linda Butler*  
11 CITY CLERK

RESOLUTION

Be it resolved on this date 6/25/76 I, W. A. ORDWAY, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the City of Flagstaff, enter into the intergovernmental agreement for the purpose of landscaping the approach to the City of Flagstaff along U.S. 66 at the intersection of Sitgreaves and Santa Fe Avenue.

*Frank A. Boer*

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For W. A. ORDWAY, Director  
Arizona Department of Transportation

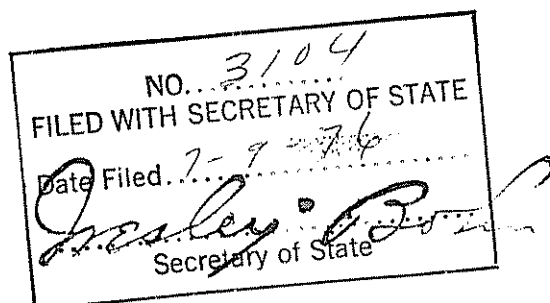
APPROVAL OF THE ATTORNEY GENERAL

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF FLAGSTAFF, and declare the agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 2nd day of April, 1976.

BRUCE E. BABBITT  
The Attorney General

*Albert Morgan*  
Assistant Attorney General



STATE OF ARIZONA     )  
                              : ss  
County of Coconino     )

I, Linda Butler, City Clerk  
of the City of Flagstaff, Arizona, do hereby certify that the following  
is a true and correct extract of the minutes of the City Council meeting  
held June 1, 1976:

Presentation of a Proposed Agreement Between the Arizona  
Department of Transportation and the City of Flagstaff for the  
Construction and Maintenance of Landscaped Islands at Santa Fe  
and Sitgreaves Streets:

The City Manager explained that quite sometime ago,  
this proposed agreement was approved by the Council and sent  
to the Highway Department for their review and approval. The  
Attorney General reviewed it and made some changes in that  
agreement, and returned it for reconsideration by the Council.  
This agreement was previously recommended by the Civic Beauty  
Commission. (Continued on Separate Page)

In Witness Whereof, I have hereunto set my hand and affixed  
the Official Seal of the City of Flagstaff, Arizona. Done in Flagstaff,  
Arizona, this 9th day of June, 1976.

Linda Butler

Extract of the Minutes of the City Council Meeting held June 1, 1976.

Councilman Holst asked if it proves impractical to grow shrubs there, will the City be committed to try to raise trees and shrubs, and if so, for how long.

Mayor Moody noted that the agreement says "the City shall properly maintain the landscaping, plant material, irrigation system and other appurtenances, following the construction at no cost to the Department of Transportation. Maintenance shall include the repair and replacement of defective irrigation material, dead or unhealthy plant material including trees and shrubs...this agreement shall remain in effect until such time as the State relinquishes ownership of the right-of-way."

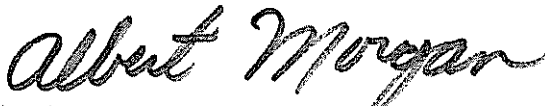
Councilman Hughes moved that the Mayor be authorized to execute the agreement. Councilman Babbitt seconded the motion. The motion unanimously carried.

APPROVAL OF THE ATTORNEY GENERAL

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF FLAGSTAFF, and declare the agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 2nd day of April, 1976.

BRUCE E. BABBITT  
The Attorney General

  
Assistant Attorney General